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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

FACEBOOK, INC.,

Plaintiff,

v.

POWER VENTURES, INC., a Cayman Island  
corporation and d/b/a POWER.COM, a  
California corporation; STEVE VACHANI, an  
individual; DOE 1, d/b/a POWER.COM,  
DOES 2-25, inclusive,

Defendants.

Case No. 5:08-CV-05780 LHK

**DEFENDANTS' CASE MANAGEMENT  
STATEMENT**

Date: September 26, 2013  
Time: 1:30 P.M.  
Judge: Hon. Lucy J. Koh  
Courtroom: 8, 4th Floor

This Court has set a Case Management Conference for September 26, 2013. In light of  
opposing parties' vastly differing positions on all but a few administrative points, Power  
Ventures, Inc. and *pro se* defendant Steven Vachani hereby submit this Defendants' Case  
Management Statement.

**I. JURISDICTION AND SERVICE**

All parties have been served. This Court has subject matter jurisdiction pursuant to 28

1 U.S.C. §§ 1331 and 1367. Facebook has asserted claims against Defendants alleging violations  
2 of the CAN-SPAM Act, 15 U.S.C. §2701 *et. seq.*, the Computer Fraud and Abuse Act, 18 U.S.C.  
3 § 1030 *et. seq.* (“CFAA”), and California Penal Code § 502(c). Venue is proper under 28 U.S.C.  
4 §1391(b).

## 5 **II. FACTS**

6  
7 In December 2008, Plaintiff Facebook, Inc. (“Facebook”) filed in the Northern District  
8 Federal court of California a complaint against joint defendants Power Ventures, Inc. (“Power”)  
9 and Power’s CEO, Vachani (Dkt. No. 9), for, among other things, violations of the CAN-SPAM  
10 Act, CFAA, and California Penal Code § 502. The actions underlying the tort claims consisted of  
11 approximately 60,627 emails sent through the Facebook server via a Power.com “event” creation  
12 to Facebook users by Facebook users. Upon learning that “event” invitations for the Power  
13 contest were being sent through its servers, Facebook took measures to intercept and control this  
14 activity. Not a single user complaint was received by Facebook in response to the Power  
15 campaign event emails.  
16

17 After three years of litigation, summary judgment was awarded on Plaintiff’s motion in  
18 February 2012 (Dkt. No. 275), erroneously finding no possibility of doubt that Defendant Power  
19 committed acts sufficiently violative of the CAN-SPAM Act, CFAA, and California Penal Code  
20 § 502. At that time, the Court reserved for determination on the separate issues of (1) Defendant  
21 Vachani’s personal liability for the acts of the corporate defendant, and (2) damages. In support of  
22 their relative positions, the Plaintiff and the collective Defendants each submitted a brief on both  
23 remaining issues in March 2012. (Dkt. Nos. 288 and 299). In mid-August 2012, Defendant  
24 Vachani was permitted to submit, and so submitted, a supplemental brief on the issue of his  
25 personal liability for the adjudged actions of the corporation. (Dkt. No. 317).  
26

27 In late August, both defendants filed for bankruptcy. As such, a stay was automatically  
28

1 imposed in the case at issue, and the Court ordered administrative closure until such time as the  
2 bankruptcy proceedings are resolved. (Dkt. No. 325).

3 In its brief on damages and personal liability (Dkt. No. 299), Facebook claims entitlement  
4 to \$80,543 for Power's violation of CFAA and CA Penal Code § 502 and \$18,188,100 for  
5 Power's violation of the CAN-SPAM Act. Private claims under the CAN-SPAM Act are of a  
6 statutory and punitive nature. (See 15 U.S.C. § 7706(g)). Facebook reaches the \$18,188,100 value  
7 by claiming the statutory *maximum* penalty of \$100 for each of the 60,627 emails and punitive  
8 treble damages, totaling \$18,188,100. Facebook's claim for actual damages is \$80,543, which  
9 consists of approximately \$5,500 for the time spent by a Facebook employee to investigate and/or  
10 address possible security matters associated with the Power campaign emails<sup>1</sup> and approximately  
11 \$75,000 for legal services performed by Facebook's counsel at Perkins Coie.

#### 12 **A. Background of CAN-SPAM, CFAA and CPC § 502 Claims**

13  
14 Power Ventures, Inc. ran a social network aggregation website - then located at  
15 www.power.com - which enabled users to access their various social network account  
16 information and communication tools from a single user account on www.power.com. In late  
17 2008, Power added Facebook to its social network collection and ran a launch campaign – “Bring  
18 100 Friends, Win 100 Bucks! – using a monetary incentive to encourage users to invite their  
19 Facebook friends to create a www.power.com account. The contest information was posted on a  
20 Facebook event page, and users of both www.facebook.com and www.power.com could invite  
21 their friends to view the contest event information by selecting which friends would receive the  
22 invite. When the invitations were submitted, notification was sent to each selected friend via  
23 whichever notification method each www.facebook.com user designated in his or her  
24

25  
26  
27 <sup>1</sup> Facebook, Declaration of Ryan McGeehan in Support of Facebook's Motion for Partial Summary Judgment on  
28 Count 1 under the CAN-SPAM Act, Dkt. No. 213-4. FILED UNDER SEAL. The value of a few days' of an  
employee's time—an employee whose job is to conduct the activities for which damages are claimed—is closer  
to \$1,500 than the \$5,500 claimed by Facebook.

1 www.facebook.com notification settings. In other words, invited friends who opted to receive  
2 email notifications from www.facebook.com when their friends sent communications received  
3 said invitation to view the contest event via email.

4 Facebook's CAN-SPAM claim is based on their assertion that over 60,000 of these  
5 "unsolicited" emails were sent to www.facebook.com users and, despite receiving no complaints  
6 from these users, purport these email to be in violation of the Federal CAN-SPAM Act since the  
7 header information in the emails, which is automatically and exclusively controlled by Facebook,  
8 misleads the recipient as to the sender or initiator of the email. In fact, the mere reference of  
9 www.power.com in the email message and the fact that Power's campaign was targeted at  
10 recruiting new users to its website is inherently straightforward and in no way "materially  
11 misleading" as required under the statute. Thus, Facebook's CAN-SPAM claim must fail under  
12 the black letters of the statute, as well as under the guidelines for such analysis clearly set out in  
13 *Omega World Travel v. Mummagraphics, Inc.*, 469 F.3d 348 (4th Cir., 2006) .

14  
15  
16 Even if Facebook is awarded damages less than the amount sought, the Summary  
17 Judgment alone sends the message that the Court supports Facebook picking and choosing who  
18 can use its service – irrespective of compliance with their terms of use – by suing under the CAN-  
19 SPAM Act for an amount that would put most small businesses under. Arguably, such activity  
20 amounts to censorship and, undoubtedly, is one large step closer to court-sanctioned anti-  
21 competitive activity.

22  
23 Irrespective of whether Power complied with Facebook's terms of use, as this is in no way  
24 relevant to any element of their CAN-SPAM claim, and *ignoring the fact that Power worked*  
25 *diligently with Facebook for weeks following Facebook's initial*, unofficial complaint to bring  
26 their program in compliance with Facebook's terms of use, the issue remains whether Facebook  
27  
28

1 can and should be allowed to prevail on a CAN-SPAM claim where there were no complaints, no  
2 misleading messages, and arguably no actual damages.

3 It is inconceivable as to why Facebook would fight so hard to send a message to its users  
4 and advertisers that Facebook, at its discretion, can sue and prevail on a claim for \$300 per  
5 message against anyone who writes content or funds a contest or offers a deal interesting enough  
6 for users to share it with their Facebook friends via the mechanism Facebook created for precisely  
7 that purpose. The potential withholding of advertisers and users surely is not worth the efforts  
8 Facebook expended to put one, small competitor out of business, but the defendants' trust the  
9 Court will be less shortsighted in its ultimate ruling on this case.

11 In determining whether a material factual dispute exists, substantive law shall identify not  
12 only which facts are material but also which facts are critical and which are irrelevant. *Anderson*  
13 *v. Liberty Lobby, Inc.*, 477 U.S. 242, 248. Here, there is case law informing on the requirement  
14 that messages at the subject of a CAN-SPAM civil action not only be misleading but, specifically,  
15 *materially* misleading. 15 U.S.C. § 7704(a)(1) (*emphasis added*). The Court erred when it found,  
16 in considering the evidence in the light most favorable to the non-moving party, there was  
17 evidence beyond a question of fact warranting summary judgment, as it did not find the messages  
18 to be *materially misleading* within the meaning and intent of the CAN-SPAM Act.

20 The Court erred in considering the alleged “hacking” of Facebook’s network with respect  
21 to the CFAA and CPC § 502 (the California corollary to the CFAA<sup>2</sup>), which are laws ultimately  
22 concerned with protecting ownership of data. Defendant Power was not only expressly granted  
23 permission, but actually instructed, by each owner to access their personal information on  
24 Facebook. The question of “unauthorized access” has been a focus of this Court<sup>3</sup>, but Plaintiff

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27 <sup>2</sup> See, generally, *Multiven, Inc. v. Cisco Sys. Inc.*, 725 F.Supp.2d 887, 2010 WL 2889262 (N.D.  
28 Cal., 2010).

<sup>3</sup> See, generally, Court Orders at Dkt. Nos. 89 and 275.

1 never established—and this Court has never found—that the accessed data at issue is proprietary  
 2 to Plaintiff and, thus, fraudulently procured, as required under the CFAA and CPC § 502.

3 The relevant provision of the CFAA provides criminal penalties for anyone who:  
 4 “knowingly and *with intent to defraud*, accesses a protected computer without authorization, or  
 5 exceeds authorized access, and by means of such conduct *furtheres the intended fraud and obtains*  
 6 *anything of value....*” 18 U.S.C. § 1030(a)(4) (*emphasis added*). Section 1030(a)(4) clearly  
 7 requires intent to defraud and obtain a thing of value, which cannot be established in the present  
 8 case since the thing “taken” was users' personal information to which Plaintiff had no proprietary  
 9 rights and, thus, was of no legal value to Plaintiff. Even if the Court finds that users' data was of  
 10 some value to Plaintiff, users' lawful sharing and Defendants' subsequent access to said data  
 11 posed no threat to Plaintiff's value since 1) Defendants did not destroy or otherwise impair the  
 12 data in any way, and 2) Plaintiff did not have ownership, let alone exclusive ownership, to users'  
 13 personal information. There may be a relevant statute under which Facebook could claim  
 14 damages for unauthorized access to data it does not own, but such claims are unsupported here.  
 15

#### 16 **B. Facebook's Standing to Raise Claims**

17 This Court erred in finding Plaintiff has standing to bring a private action under  
 18 the CAN-SPAM Act because Plaintiff did not suffer damages sufficient to grant them standing  
 19 under the Act. The *Gordon* court identified relevant damages establishing standing<sup>4</sup>, and Plaintiff  
 20 suffered none of these harms. Instead, Plaintiff deliberately mischaracterized their claimed  
 21 “damages” of \$5,543 for 3-4 days' salary for one engineer to “investigate” the alleged  
 22  
 23  
 24  
 25

26 <sup>4</sup> The costs of investing in new equipment to increase capacity, customer service personnel to  
 27 address increased subscriber complaints, increased bandwidth, network crashes, and the  
 28 maintenance of anti-spam and filtering technologies as the “sorts of ISP-type harms” that  
 Congress intended to confer standing. *See, Gordon v. Virtumundo, Inc.*, 575 F.3d 1040 (9th Cir.,  
 2009) at 1053.

1 spamming<sup>5</sup>, which was clear from the messages themselves, and \$75,000 in legal fees to initiate  
 2 litigation, which they colored as “investigative costs” incurred by “Cutler’s Firm” (better known  
 3 as Perkins Coie LLP, who was Plaintiff’s outside counsel at the time). Such self-imposed fees to  
 4 investigate and litigate a competitor’s use of their system does not qualify as “harm” under any  
 5 interpretation or application of the Act.

6  
 7 Further, Plaintiff has not established standing under CFAA or CPC § 502 because they have not  
 8 established that their network suffered disruption or slowdown<sup>6</sup>. To allege a loss under the  
 9 CFAA, “plaintiffs must identify impairment of or damage to the computer system that was  
 10 accessed without authorization.” *See, AtPac, Inc.*, 730 F. Supp. 2d at 1184. In *Farmers*, the Court  
 11 confirmed that “[c]osts not related to computer impairment or computer damages are not  
 12 compensable under the CFAA.” *See Farmers Ins. Exch. v. Steele Ins. Agency, Inc.* (E.D. Cal.,  
 13 2013) at 721. Thus, Plaintiff’s claim for attorney and engineer “investigation” fees, as described  
 14 above, could not be considered compensable and, thus, not confer standing under the CFAA.

### 15 16 **C. Facebook’s Vexatious Interference in Defendants’ Bankruptcy Cases**

17 Commencing on 27 August 2012 (the “Petition Date”), Power filed a voluntary petition  
 18 for relief under Chapter 11 of Title 11 of the United States Code (the “Bankruptcy Code”) and  
 19 Vachani filed a voluntary petition for relief under Chapter 13 of the Bankruptcy Code. In both  
 20 bankruptcy cases, Facebook argued for dismissal, purporting that the filings contravened the  
 21 purposes of the Bankruptcy Code under its good faith requirements. It is well established that it is  
 22 not necessarily “bad faith” for debtors to file for bankruptcy to avail themselves of certain Code  
 23 provisions. On June 20, 2013, Judge Efremsky issued an order explicitly overruling Facebook’s  
 24 objection to Mr. Vachani’s Chapter 13 petition on the alleged lack of good faith. *See, In re*

25  
26  
27 <sup>5</sup> *See*, Declaration of Ryan McGeehan, Dkt. No. 213-4.

28 <sup>6</sup> The CFAA defines “loss” as “any reasonable cost to any victim, including the cost of responding to an offense... incurred *because of interruption of service* . . . .” 18 U.S.C. § 1030(e)(11) (*emphasis added*).

1 Vachani, CANB Case No. 12-47150 RLE 13, Dkt. No. 174. In his Order, Judge Efremsky further  
2 found:

3 “With regard to the objection by Facebook that the Debtor is not eligible for relief under  
4 chapter 13, the Court hereby finds that the unsecured claims of Facebook, asserted in the  
5 United States District Court for this District (the “District Court”), in Civil No. 5:08-CV-  
6 05780 LHK, are noncontingent, but defers ruling on whether the claims were readily  
7 ascertainable on the Petition date, and therefore liquidated for purposes of 11 U.S.C. §  
8 109(e), or in what amount, if any, until the District Court concludes its adjudication of the  
9 validity and amount, if any, of Facebook’s claims against the Debtor, in that pending civil  
10 action.”

11 *See, Id.* at 2:8.

12 Significantly, it is largely due to multiple years of Facebook litigation that Power finds  
13 itself in the position of filing for bankruptcy in order to salvage its assets and have a chance at  
14 rebuilding, but that is where the association ends. The timing of the filing was due to 1) the  
15 impracticality of waiting any longer to start rebuilding on its innovation infrastructure, and 2) a  
16 deal with former investors involving an intellectual property sale that allowed Power to remove  
17 over \$6 million in debt and approximately \$7.7 million in liquidation preferences. Power waited  
18 until the end of the two-year anniversary from this sale to further avoid any potential objections  
19 within the two-year statute of limitations. At the time of Power’s Chapter 11 filing, Vachani  
20 opted to file for Chapter 13, as waiting until after a judgment, if any and if it were large enough,  
21 would disqualify him from Chapter 13 protections due to the debt limit.

22 Further, Facebook repeatedly and consistently argued to both bankruptcy courts that the  
23 present civil matter had been decided as to liability of *both* defendants. (*See* Vachani’s Motion for  
24 Clarification re Status of Liability, Dkt. No. 322). It is wholly unconscionable for Facebook to  
25 mischaracterize the status of the District Court’s judgment in an effort to interfere with Vachani’s  
26 ability to seek the financial protections afforded by the Court. Vachani’s bankruptcy filing in no  
27 way deprived Facebook the opportunity to pursue their purported claim, and, more significantly,  
28 it in no way deprived Facebook the opportunity to represent itself fairly before the Court and



1 argue its position honestly.

## 2 **D. Vachani's Liability**

3 Judge Ware only determined in his Summary Judgment that the actions—actions made by  
4 persons within the company, acting for the company and within the scope of their directorship  
5 and/or employment by the company—constituted a basis for Summary Judgment on the three  
6 counts. There was no finding that Vachani performed actions as an individual outside the scope of  
7 his position as CEO of the corporate defendant; there are no cases remotely related to the present  
8 facts wherein an individual representative was found liable for the CAN-SPAM violations of the  
9 company; and there were no additional counts alleged against Vachani as an individual. Further,  
10 as Power did not commit acts in violation of the CAN-SPAM Act, its representative cannot be  
11 held liable for the same alleged violation.  
12

## 13 **E. Damages**

14 As Power did not violate the CAM-SPAM Act and Facebook does not have standing to  
15 bring the private actions at issue, damages cannot and should not be established against the  
16 defendants. Facebook appears to be following its own pattern of pursuing valueless actions  
17 against companies that have already agreed not to—and have, in fact, ceased to—perform the  
18 offending activity. In the civil case at issue, the only associated damages, if any, were at  
19 Facebook's own unnecessarily reactionary instigation. Indeed, Power made good faith attempts to  
20 negotiate an amicable resolution upon Facebook's discovery of Power's contest emails.  
21

22 Facebook's propensity to litigate claims under these Acts is well established. (See, e.g.,  
23 *Facebook v. Wallace*, No. C-09-00798 JF, 2009 (where defendants who were known scam artists  
24 sent spam messages to Facebook users' message walls aimed at deceiving recipients into visiting  
25 defendants' phishing sites; case terminated in default judgment); *Facebook v. MaxBounty*, No.  
26 5:10-cv-04712 LHK, 2011 (N.D. Cal. Nov. 14, 2011) (where defendants facilitated Facebook  
27  
28

1 user traffic to defendants' contracting sites by providing technical assistance in creating fake  
 2 Facebook campaigns; case terminated in settlement); *Facebook v. Fisher*, No. C-09-5842 JF  
 3 (PSG) (where defendants sent more than 7.2 million spam messages to Facebook users after  
 4 obtaining information for at least 116,000 Facebook accounts without consent; case terminated in  
 5 settlement or default judgment as to the various defendants); *Facebook v. Guerbuez*, No. 5:08-cv-  
 6 03889-JF, 2008 (N.D. Cal. Nov. 25, 2008) (where defendants sent more than 4 million sexually  
 7 explicit spam messages from members' profiles; case terminated in default judgment); *Facebook*  
 8 *v. AdScend*, No. 5:12-cv-00414 LHK, 2012 (N.D. Cal. Apr. 25, 2012) (where defendants were  
 9 accused of running a \$20 million-a-year spam scheme that leads social-media users to advertising  
 10 sites by offering fake links to salacious videos; case terminated in voluntary dismissal)). There is  
 11 a private right of action to enable recovery of loss under CA Penal Code § 502 and the CFAA, but  
 12 this does not permit a private company to police the field. Facebook seeks to "punish" those  
 13 believed to be offenders where the penal code itself provides for such punishment, should law  
 14 enforcement find it suitable. Here, no such criminal action was initiated, and no actual damages  
 15 were sustained due to Power's innocuous campaign activity.

#### 18 **F. Sanctions Award for Facebook**

19 Facebook has been awarded \$39,796.73 in "reasonable costs and fees" for a one-day  
 20 renewed 30(b)(6) deposition. Defendant Vachani is currently appealing this order.

#### 22 **G. Defendants' Motion for Leave to File Motion for Reconsideration of the Summary** 23 **Judgment**

24 On August 1, 2013, Defendants filed for leave to file motion for reconsideration of the  
 25 summary judgment entered February 16, 2012. Dkt. No. 353.

### 26 **III. LEGAL ISSUES**

27 At this time, it is the defendants' position that the following issues remain open:  
 28

1           A. Should this Court reconsider its analyses of the CAN-SPAM, CFAA and CPC §  
2           502 claim elements and Facebook's standing to bring any of the private actions at  
3           issue in its 16 February 2012 Summary Judgment?  
4

5           B. Should the Court reconsider the defendants' Motion for Summary Judgment in  
6           light of its reconsideration of the Summary Judgment order?  
7

8           C. If this Court affirms the Summary Judgment, should Steve Vachani be held liable  
9           and, if so, to what degree?  
10

11           D. If this Court affirms the Summary Judgment, what amount of damages, if any,  
12           should be imposed against the liable defendants?

#### 13   **IV.    MOTIONS**

##### 14    **A.    Pending Motions**

15           The following motions, or outstanding issues associated with motions, are presently  
16   before the Court:

- 17           1. Defendant Power's Motion for Leave to File Motion for Reconsideration of Court's
- 18           Order for Summary Judgment. Dkt. No. 353.
- 19           2. Plaintiff Facebook's Request for Injunctive Relief. Dkt. No. 351.
- 20           3. To what amount of damages, if any, is Facebook entitled based on the Court's Order for
- 21           Summary Judgment? Dkt. No. 275.
- 22           4. Is Defendant Steve Vachani individually liable for the damages awarded Facebook?
- 23

##### 24    **B.    Anticipated Motions**

25           None.  
26  
27  
28

1 **V. AMENDMENT OF PLEADINGS**

2 The case is now fully at issue.

3 **VI. EVIDENCE PRESERVATION**

4 The defendants have reviewed the Guidelines Relating to the Discovery of Electronically  
5 Stored Information (“ESI Guidelines”), and the parties have met and conferred pursuant to Fed.  
6 R. Civ. P. 26(f) regarding reasonable and proportionate steps taken to preserve evidence relevant  
7 to the issues reasonably evident in this action.  
8

9 **VII. INITIAL DISCLOSURES**

10 Facebook served its initial disclosures on Defendants on July 29, 2011. Facebook served  
11 its supplemental and second supplemental initial disclosures on Defendants on October 14, 2011  
12 and January 13, 2012, respectively. Defendants served their initial disclosures on Facebook on  
13 August 15, 2011. To date, Defendants have not supplemented the initial disclosures.  
14

15 **VIII. DISCOVERY**

16 Discovery closed on January 20, 2012. Defendants believe no additional discovery is  
17 necessary at this time.

18 **IX. CLASS ACTIONS**

19 This is not a class action case.

20 **X. RELATED CASES**

21 Vachani’s bankruptcy proceeding in the United States Bankruptcy Court for the Northern  
22 District of California, Case No. 12-47150 RLE 13, is related to this matter, as well as Defendant  
23 Vachani’s pending appeal of the recent sanctions order, USCA Case No. 13-16795.  
24

25 **XI. RELIEF**

26 Defendants seek review and reversal of the 16 February 2012 Summary Judgment (Dkt.  
27 No. 275), as well as reconsideration of defendants’ Motion for Summary Judgment (Dkt. No. 98).  
28

1 In the alternative, defendants seek leave to file supplemental briefs on the issue of damages and  
2 defendant Vachani's personal liability.

3 **XII. SETTLEMENT AND ADR**

4 The parties engaged in an ADR mediation session on December 14, 2009. The session  
5 was facilitated by mediator Daralyn Durie, who has filed papers with the Court indicating that the  
6 ADR process is not yet complete and that further facilitated discussions are expected. *See* Dkt.  
7 No. 59. To date, the parties have engaged in numerous settlement discussions, but have been  
8 unable to reach resolution. The latest of these settlement discussions was on or around April 26,  
9 2013.

10 **XIII. CONSENT TO MAGISTRATE JUDGE FOR ALL PURPOSES**

11 The parties have not consented to a magistrate judge.

12 **XIV. OTHER REFERENCES**

13 The parties do not believe any other references are necessary.

14 **XV. NARROWING OF ISSUES**

15 Defendants do not believe that issues can be narrowed at this time.

16 **XVI. EXPEDITED TRIAL PROCEDURES**

17 An expedited schedule is not necessary in this case.

18 **XVII. SCHEDULING**

19 None.

20 **XVIII. TRIAL**

21 Not applicable.

22 **XIX. DISCLOSURE OF NON-PARTY INTERESTED ENTITIES AND PERSONS**

23 Pursuant to Civil L.R. 3-16, the undersigned certifies that as of this date, other than the  
24 named parties, there is no such interest to report.

1 **XX. OTHER MATTERS**

2 None.

3 Dated: September 19, 2013

AROPLEX LAW

4 By /s/ Amy Sommer Anderson

5 AMY SOMMER ANDERSON

6 Amy Sommer Anderson  
7 AROPLEX LAW  
8 156 2nd Street  
9 San Francisco, CA 94105  
10 Attorneys for Defendant  
11 POWER VENTURES, INC.

12 Dated: September 19, 2013

STEVEN VACHANI

13 By /s/ Steven Vachani

14 STEVEN VACHANI

15 Steven Vachani (pro per)  
16 2425B Channing, #216  
17 Berkeley, CA 94704

18  
19 FILER'S ATTESTATION: Pursuant to General Order No. 45 §X(B), I attest under penalty of  
20 perjury that concurrence in the filing of the document has been obtained from its signatory.

21 Dated: September 19, 2013

Respectfully submitted,

22 By /s/ Amy Sommer Anderson  
23 Amy Sommer Anderson

**CERTIFICATE OF SERVICE**

I am a citizen of the United States and a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is Aroplex Law, 156 2<sup>nd</sup> Street, San Francisco, CA 94105.

On **September 19, 2013**, I served the following document(s) by the method indicated below:

- Defendants' Case Management Statement

**X ECF System:** By filing the document(s) listed above on the Court's Electronic Case Filing System, I am informed and believe that the documents will be electronically served on all individuals registered with such system. To my knowledge, every individual to whom notice is required is registered with this system and, thus, has been served with due notice by action of this electronic filing.

I declare under penalty of perjury under the laws of the State of California that the above statements are true and correct.

Executed September 19, 2013 at San Francisco, California.

By: /s/ Amy Sommer Anderson

Amy Sommer Anderson